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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,197	07/01/2000	John B. Ferber	2580-001	6838

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EXAMINER

LAFORGIA, CHRISTIAN A

ART UNIT PAPER NUMBER

2131

DATE MAILED: 10/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/610,197

Applicant(s)

FERBER ET AL.

Examiner

Christian La Forgia

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 7-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-5 and 7-15 is/are allowed.
- 6) ☒ Claim(s) 16-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

Applicant's submission filed on 01 August 2005 has been entered.

2. Claims 2-5 and 7-30 have been presented for examination.

3. Claims 2-5 and 7-15 have been allowed for reasons indicated in the action dated 31 March 2005.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Regarding claims 16-20, the phrase "and any additional learning gained" renders the claims indefinite because the claims include elements not actually disclosed (those encompassed by "and any additional learning gained"), thereby rendering the scope of the claims unascertainable. See MPEP § 2173.05(d). If the language of the claims is such that a person of ordinary skill in the art could not interpret the metes and bounds of the claim so as to understand how to avoid infringement, a rejection under 35 U.S.C. 112, second paragraph would be appropriate. See MPEP § 2173.02; see *Morton Int'l, Inc. v. Cardinal Chem. Co.*, 5 F.3d 1464, 1470, 28 USPQ2d 1190, 1195 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 21-30 are rejected under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,119,098 to Guyot et al., hereinafter Guyot, in view of U.S. Patent No. 6,850,252 to Hoffberg, hereinafter Hoffberg.

8. As per claim 21, Guyot discloses a computer-implemented method for selecting Internet advertisements for presentation, comprising:

establishing a customer profile for a customer, the customer profile including long-term attributes (data entered by subscriber) related to a category of advertisements of interest to the customer and short-term attributes related to a product of interest to the customer (recent web - sites visited) (column 2, lines 37-42, column 3, lines 60-65, column 6, lines 31-39); and

for an Internet advertisement,

using the long-term attributes and the short-term attributes to compute a click probability estimate representing a likelihood that the customer will respond to the Internet advertisement (column 1, line 56 to column 2, line 8, i.e. "provides advertisements to the 'client application' that are targeted to each individual subscriber, based on a personal profile by that subscriber").

9. Guyot discloses keeping track of the number of times an Internet advertisement has been displayed (column 2, lines 23-29) and using an estimate to determine whether to display an advertisement to the customer (column 1, lines 56-65).

10. Guyot does not disclose determining an uncertainty of the click probability estimate and using the uncertainty to determine whether to present the Internet advertisement to the customer.

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11. Hoffberg discloses determining a conditional probability of a subsequent action by the user, which is drawn to the uncertainty of the click probability (column 44, lines 37-60).

12. Guyot and Hoffberg are both drawn to target advertising based on at least user profiles.

13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine an uncertainty of the click probability estimate based at least in part on a number of times the advertisement has been displayed and using both the click probability estimate and the uncertainty to determine whether to present the advertisement to the customer, since Hoffberg states at column 44, lines 43-60 that such a modification may be used to calculate an advertiser charge for delivery of an advertisement, prioritize the advertisements sent to the user in order to maximize the utility to the selected advertiser.

14. Regarding claim 22, Guyot teaches adjusting the customer profile based on types of advertisements previously responded to by the customer (column 4, lines 15-23, i.e. number of times each advertisement has been effectively displayed on the subscriber's system).

15. Regarding claim 23, Guyot teaches adjusting the customer profile based on Internet sites visited by the customer (column 2, lines 37-42, i.e. client application keeps track of Internet sites that the subscriber has accessed).

16. Regarding claims 24, 26, and 30, Hoffberg teaches presenting the Internet advertisement to the customer (column 43, lines 36-52, i.e. advertisers can try to expose consumers to advertisements designed to appeal to their tastes and interests),

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receiving a response to the Internet advertisement from the customer (column 43, line 58 to column 44, line 5, i.e. click-through); and

updating the uncertainty based on the customer's response (column 44, lines 37-60).

17. As per claim 25, Guyot discloses a computer-implemented method for optimizing Internet advertising selection, comprising:

creating a customer profile corresponding to a customer (column 2, lines 37-42, column 3, lines 60-65, column 6, lines 31-39);

establishing an advertisement profile for each of a plurality of advertisements, each advertisement profile including an expected revenue based on potential placement of the corresponding advertisement (column 3, line 66 to column 4, line 23);

for each advertisement, using the customer profile to determine an estimated probability that the customer will respond to the advertisement (column 1, line 56 to column 2, line 8); and

selecting which of the plurality of advertisements to present to the customer based on the estimated probability of the customer responding to the advertisement (column 1, line 56 to column 2, line 8).

18. Guyot discloses keeping track of the number of times an Internet advertisement has been displayed (column 2, lines 23-29).

19. Guyot does not disclose determining an uncertainty based on the amount of times the advertisement has been placed and placing the advertisement based on the probability of the customer responding, the expected revenue, and the measure of uncertainty.

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20. Hoffberg discloses determining a conditional probability of a subsequent action by the user, which is drawn to the uncertainty of the click probability (column 44, lines 37-60), and placing the advertisement based on the probability of the customer responding, the expected revenue, and the measure of uncertainty (column 44, lines 37-60).

21. Guyot and Hoffberg are both drawn to target advertising based on at least user profiles.

22. It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine an uncertainty of the click probability estimate based at least in part on a number of times the advertisement has been displayed and using both the click probability estimate and the uncertainty to determine whether to present the advertisement to the customer, since Hoffberg states at column 44, lines 43-60 that such a modification may be used to calculate an advertiser charge for delivery of an advertisement, prioritize the advertisements sent to the user in order to maximize the utility to the selected advertiser.

23. Regarding claim 27, Hoffberg teaches wherein the response is a click selecting the advertisement (column 43, line 59 to column 44, line 23).

24. Regarding claim 28, Hoffberg teaches wherein the response is a request for more information (column 44, lines 24-36).

25. Regarding claim 29, Hoffberg teaches wherein the response is a purchase of an item in the advertisement (column 43, line 59 to column 44, line 5).

Allowable Subject Matter

26. Claims 16-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

28. The following patents are cited to further show the state of the art with respect to Internet target advertising, such as:

United States Patent No. 6,285,987 to Roth et al., which is cited to show an internet advertising system.

United States Patent No. 5,724,521 to Dedrick, which is cited to show providing electronic advertisements to end users in a consumer best-fit pricing manner.

United States Patent Application Publication No. 2002/0072965 to Merriman et al., which is cited to show delivery targeting and measuring advertising over networks.

United States Patent No. 6,442,529 to Krishan et al., which is cited to show delivering targeted information and advertising over the Internet.

United States Patent No. 6,161,127 to Cezar et al., which is cited to show Internet advertising with controlled and timed display of ad content from browser.

United States Patent No. 6,925,441 to Jones, III et al., which is cited to show targeted marketing.

United States Patent No. 6,012,051 to Sammon, Jr. et al., which is cited to show consumer profiling system with analytic decision processor.

United States Patent No. 6,236,975 to Boe et al., which is cited to show profiling customers for targeted marketing.

United States Patent No. 6,317,782 to Himmel et al., which is cited to show detecting actual viewing of electronic advertisements and transmitting the detected information.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian La Forgia whose telephone number is (571) 272-3792.

The examiner can normally be reached on Monday thru Thursday 7-5.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christian LaForgia
Patent Examiner
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